

December 22, 2000

MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Process

ORDER TERMINATING BID
PROCESS AND ADOPTING
ALTERNATIVE SELECTION
PROCESSES

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we terminate the formal bid process to select standard offer providers in the Central Maine Power Company (CMP) and Bangor Hydro-Electric Company (BHE) service territories, for service beginning on March 1, 2001. We find that the bids received are inadequate due to current price spikes in the New England wholesale electricity market that are caused by factors that may be short-lived. We adopt a two-part alternative selection process:

1. the Commission will continue to seek and will receive bids from bidders who were qualified in our formal bid process; and
2. we direct CMP and BHE to explore wholesale power supply arrangements that would permit the T&D utilities to serve as standard offer providers.

II. BACKGROUND

Section 3212 of Title 35-A and Chapter 301 of our Rules require that the Commission conduct a bid process to select standard offer providers for electricity customers in Maine who do not otherwise obtain service from the competitive market. To meet this responsibility, on October 2, 2000, the Commission issued three Requests for Bids (RFB): one each to provide standard offer service to customers in the service territories of CMP, BHE and MPS.¹

Consistent with the RFBs, the bid submission occurred in two phases. In Phase I, our staff reviewed the non-price portions of bidders' proposals for conformance with our rules and the requirements of the RFB. Bidders whose proposals conformed were notified and allowed to present Phase II price proposals. A number of Phase II price proposals have been submitted, beginning on December 7, 2000. We have

¹ Pursuant to Chapter 301, § 8(E), the consumer-owned utilities opted to conduct their own bid processes.

evaluated the proposals based on the selection criteria contained in Chapter 301, § 8(C)(2), which states:

The Commission shall select the standard offer provider or combination of standard offer providers for each standard offer class based on the objectives of obtaining the lowest price for standard offer service for each standard offer class, the lowest cost for standard offer service overall, and the stability of standard offer prices.

Using these criteria, on December 19, 2000, we designated a standard offer provider for all three standard offer classes in MPS's service territory. Although we have deliberated bids to provide standard offer service for standard offer classes in CMP's and BHE's service territory,² we were not able to accept bids for any of the standard offer classes in the CMP or BHE service territories.³ Unfortunately, the timing of the Phase II price proposals has coincided with a period of extreme price increases and volatility in the natural gas commodity markets. The volatility and level of the price of natural gas have placed substantial upward pressure on bid prices for CMP or BHE service territories.

Adding to the wholesale electricity market uncertainty, in the midst of our Phase II proposal evaluation period, FERC issued an Order that set an Installed Capability (ICAP) deficiency charge for the New England wholesale market. In that decision, FERC rejected ISO New England, Inc.'s (ISO) compliance filing for an ICAP deficiency charge of \$0.17/kW month and instead imposed a charge of \$8.75/kW month. This event also resulted in Phase II bid price increases.

II. DECISION

We have received and considered Phase II price proposals for the BHE and CMP service territories during the two-week period beginning December 7, 2000. During this period, wholesale electric energy forward prices have been fluctuating. Bid prices have reflected this volatility as well as the even greater fluctuations in natural gas markets. Moreover, on the day after FERC announced its ICAP deficiency decision, forward prices for ICAP more than doubled. From our observation of these markets and information provided by bidders, it is evident that the price proposals for the CMP and

²The residential and small non-residential customer standard offer class for CMP remains served by an Energy Atlantic bid accepted by the Commission in December 1999, for service through February 28, 2002.

³The Commission during its December 11, 2000 deliberations designated a standard offer provider for the residential/small non-residential and medium non-residential classes in the BHE territory and the medium non-residential class in CMP's territory subject to the satisfactory outcome of certain contingencies. The contingencies, however, could not be satisfied with the applicable time frame.

BHE service territories have reflected a premium due to the recent natural gas price volatility and ICAP deficiency charge decision.

We believe that the extreme natural gas price volatility may be a transient matter. We also believe that the impact of FERC's ICAP deficiency charge decision on electricity prices may be temporary, because of the ongoing efforts to reverse FERC's decision. If either or both of these beliefs prove accurate, there is at least a reasonable probability, although by no means a certainty, that wholesale electricity prices will moderate in the near future.

In short, we think that the timing for our Phase II price proposals of December 7 through December 21 has been disadvantageous and has worked to reduce the likelihood that we could meet our objective of obtaining reasonably priced standard offer service and stable standard offer prices.

We are now at the end of the time period for consideration of Phase II price proposals. Using our authority described in Chapter 301, section 8(D), we reject all proposals received for the CMP and BHE service territories.⁴ Because of the timing problems described above, we conclude that acceptance of any of the bids is not in the public interest. Consistent with Chapter 301, we must now explore alternative means for obtaining standard offer service beyond the formal bid process initiated by our October 2 RFBs.

Where the formal bid process does not yield standard offer providers, Chapter 301, sections 8(D)(1) and (2) direct us to identical alternative processes for selecting standard offer providers:

[The Commission] will either select a standard offer provider for the applicable standard offer class(es) through alternative means or issue an order directing the transmission and distribution utility to provide standard offer service to the applicable standard offer class(es) through purchases for the required wholesale bulk power markets, contracts with wholesale suppliers or other appropriate arrangements, as specified by the Commission, until the selection of a standard offer provider is made through a new bid process.

Chapter 301, section 8(D)(2).

We decide that the public interest will be best served, and we will more likely achieve our objectives of reasonably priced standard offer service and stable standard offer prices, if we pursue both alternative processes simultaneously. On the one hand, we will continue to entertain price proposals from bidders who were qualified by the

⁴As described above, most of the Phase II price proposals lapsed by their own terms by our failure to accept them at earlier times.

Phase I RFB process to submit Phase II bid price proposals. As noted earlier, if the events that we believe have caused adverse electricity price impacts are indeed transient, it is possible that wholesale electricity forward prices will be reduced, resulting in lower standard offer service bids.

While we will continue accepting price proposals from Phase I-qualified bidders, we believe prudence dictates that we also direct CMP and BHE to explore wholesale power supply arrangements that would permit the T&D utilities to serve as standard offer providers beginning on March 1, 2001. Wholesale power arrangements may attract additional bidders and more favorable prices than the retail standard offer arrangement of our RFB process. We must at least explore that possibility before we decide that we have achieved our objective to establish reasonably-priced standard offer service and stable standard offer prices. Accordingly, we direct CMP and BHE to solicit price proposals for wholesale power arrangements. In their solicitations, CMP and BHE should seek wholesale arrangements with and without ICAP. That should allow the Commission to assess the impact of the FERC ICAP deficiency charge decision and determine the best course of action for dealing with the possibility that FERC may be persuaded to reconsider its decision or be ordered to do so by an appellate court.

While we are soliciting additional bids and the T&D utilities are soliciting wholesale power arrangements, we seek comments from interested persons as to the proper course of action for the Commission to take on procuring standard offer service in the CMP and BHE service territories. In addition, we seek comments on the following specific matters (and on any other issues commenters would like to address):

1) Whether, during the next standard offer period (i.e., the period beginning March 1, 2001) in CMP's and BHE's service territories, the Commission should establish standard offer rates for the large non-residential standard offer classes that are variable, market-based rates? Real-time after-the-fact rates? Rates calculated using a rolling average of power acquisition costs over some historical period?

The Commission acts pursuant to Chapter 301, section 8(D) and therefore must establish standard offer rates. If the power supply arrangements accepted by the Commission or T&D utility reflect variable or indexed costs for the large standard offer class, we conclude that section 8(D)(3) authorizes variable-priced standard offer service when the Commission receives no bids or rejects all bids. Interested persons may also comment on this conclusion.

2) Whether the Commission or T&D utilities should seek power supply arrangements over varied time periods and in different amounts for the two service territories and the standard offer customer classes?

3) Whether the Commission should consider engaging a broker to acquire a power supply portfolio for the standard offer class(es) and tie the broker's compensation to the price results obtained by the broker?

Comments for interested persons should be filed no later than January 16, 2001. As described above, during this comment period, the Commission will continue to consider standard offer bids, and T&D wholesale power supply arrangements. It is conceivable that the Commission will accept standard offer bids or T&D-wholesale power arrangements before the comment period expires.

Dated at Augusta, Maine, this 22nd day of December, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

This document has been designated for Publication

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

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